

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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HECTOR ACUNA,

Plaintiff,

v.

Case No. 17-cv-1181-pp

DR. JEFFREY MANLOVE, *et al.*,

Defendants.

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**ORDER DIRECTING THE PLAINTIFF TO CLARIFY HIS RESPONSE TO  
THE DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**

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On September 20, 2018, three of the four defendants (Brian Foster, Jeffrey Manlove and Anthony Meli) filed a motion for summary judgment on exhaustion grounds (rather than the merits of the plaintiff's claims). Dkt. No. 37. The remaining defendant, Dr. Mikkelson, filed a motion for summary judgment—also on exhaustion grounds—on October 16, 2018. Dkt. No. 42. As a consequence, the court stayed the discovery and dispositive motion deadlines. Dkt. Nos. 47. On December 11, 2018, the court received from the plaintiff a letter that talks about his attempts to exhaust his complaints. Dkt. No. 49. The date the plaintiff put on the letter is December 5, 2018. Id.

Perhaps the plaintiff meant for that letter to be his response to the defendants' summary judgment motions, but the court can't be sure of that. Civil Local Rule 56(b)(3) allows the defendants to file a reply brief in support of their motion for summary judgment; reply briefs are due fourteen days after the plaintiff's response brief. The defendants have not filed a reply brief; they, too, may be confused about whether the plaintiff intended the letter he wrote on December 5, 2018 to be his response to the summary judgment motions.

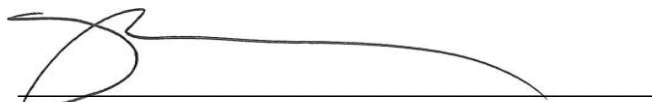
The court will give the plaintiff two options: either he can write to the court and let the court know that his December 5, 2018 letter is his response to the motions for summary judgment, *or* he can file a formal response to the motions. If he wants his December 5, 2018 letter to be his response, he needs only to file a sentence or so, saying that.

If he wants to file a formal response to the motions, he should put the “caption” of the case—“Hector Acuna, Plaintiff, v. Dr. Jeffrey Manlove, *et al.*, Defendants, Case No. 17-cv-1181” at the top of the first page. He should put a title on the first page—something like “Plaintiff’s Response to Defendants’ Motions for Summary Judgment”—so the court and the defendants know what the plaintiff intends the document to be. He should read the defendants’ arguments, and then respond to each argument with which he disagrees. He may respond to both motions in a single document.

The court **ORDERS** that by the end of the day on **March 8, 2019**, the plaintiff either shall notify the court in writing that he intended his December 5, 2018 letter to be his response to the motions for summary judgment, or he shall file a formal response to the motions. The court **ORDERS** that the plaintiff must file whichever document he chooses in time for the court to *receive* it by the end of the day on March 8, 2019.

Dated in Milwaukee, Wisconsin this 6th day of February, 2019.

**BY THE COURT:**



**HON. PAMELA PEPPER**  
**United States District Court Judge**